

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JAMES ENCINAS,

Plaintiff(s),

v.

UNIVERSITY OF WASHINGTON,

Defendant(s).

CASE NO. 2:20-cv-01679-TL

ORDER

This action arises from Plaintiff James Encinas's Title VII claims of employment discrimination by his former employer the Harborview Medical Center, which operates under the umbrella of the University of Washington, the Defendant in this action. Dkt. No. 5 at 3–4. This matter is before the Court on Plaintiff's request for court-appointed counsel (the "Motion for Counsel"). Dkt. Nos. 6, 23.

Plaintiff first sought appointment of counsel in November 2020 (Dkt. No. 6), which was denied (Dkt. No. 9). Plaintiff then moved for reconsideration of his motion. Dkt. No. 23. On September 30, 2022, the Court found that the prior denial had been predicated on an incorrect

1 legal standard and directed Plaintiff to file a renewed and corrected request form for the
 2 appointment of counsel to be forwarded to the Screening Committee of the Pro Bono Panel of
 3 this District. Dkt. No. 29 at 16–21. In its order, the Court cautioned Plaintiff that “there is no
 4 guarantee that an attorney or law firm will volunteer to work on this case.” *Id.* at 21.

5 Plaintiff submitted a corrected request for counsel (Dkt. No. 30), which was forwarded to
 6 the Screening Committee for its consideration (Dkt. No. 32 at 3). On November 7, 2022, having
 7 received the Screening Committee’s recommendation to appoint counsel, the Court granted
 8 Plaintiff’s Motion for Counsel and directed that counsel be identified from the Pro Bono Panel to
 9 represent Plaintiff. Dkt. No. 34 at 3.

10 Unfortunately, despite the Court’s November 7 order and the diligent efforts of the Pro
 11 Bono Panel in the last three months, *pro bono* counsel could not be secured for Plaintiff.

12 The Court has the authority and discretion to appoint *pro bono* counsel for Plaintiff, who
 13 brings a Title VII claim of employment discrimination, under 42 U.S.C. § 2000e-5(f)(1). *See*
 14 *Johnson v. U.S. Dep’t of Treasury*, 939 F.2d 820, 824 (9th Cir. 1991) (“It is undisputed that the
 15 district court had the authority to appoint counsel [under § 2000e-5(f)(1)]. . . . [T]he
 16 determination is left to the sound discretion of the district court.”). While almost any litigant
 17 would likely benefit from counsel, “[t]here is no constitutional right to appointed counsel for
 18 employment discrimination claims” *Ivey v. Bd. of Regents of Univ. of Alaska*, 673 F.2d 266,
 19 269 (9th Cir. 1982); *see also Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009) (“Generally, a
 20 person has no right to counsel in civil actions.”).

21 The Court has exhausted all avenues available to it to secure counsel for Plaintiff, and
 22 Plaintiff must continue to represent himself. *See, e.g., Mayo v. United States*, No. C11-1115, slip
 23 op. at 2 (W.D. Wash. Jan. 16, 2013), ECF No. 102 (denying motion to appoint counsel where no
 24 *pro bono* volunteer was found); *see also Cooper v. City of Ashland*, No. 97-36108, 1999 WL

1 439427, at *4 (9th Cir. June 22, 1999) (unpublished opinion) (“[T]he selected counsel declined
2 to represent [Plaintiff] and no other pro bono counsel was located The district court . . .
3 lacked the authority to require counsel to represent [Plaintiff].” (citation omitted)).

4 Accordingly, it is hereby ORDERED:

5 (1) The Court’s prior order granting Plaintiff’s Motion for Counsel (Dkt. No. 34) is
6 VACATED, and Plaintiff’s Motion for Counsel (Dkt. Nos. 6, 23) is DENIED.

7 (2) Plaintiff must proceed *pro se*, unless he is able to separately obtain counsel.

8 Plaintiff may seek court-appointed counsel at a later date upon a change in
9 material circumstances in this case or to seek a limited-scope representation of
10 *pro bono* counsel. Plaintiff is again cautioned that *pro bono* counsel cannot be
11 guaranteed.

12 (3) The stay in this matter is LIFTED. An order for initial case scheduling deadlines
13 will issue separately.

14 Dated this 14th day of February 2023.

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17 Tana Lin
18 United States District Judge
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